

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Health Data and Analytics
Division of Health Benefit Exchange
(Repealer)

900 KAR 10:201. Repeal of 900 KAR 10:200.

RELATES TO: KRS 194A.050(1), 45 C.F.R. Parts 155, 156, 42 U.S.C. 18022, 18031, 18042, 18054

STATUTORY AUTHORITY: KRS 194A.050(1)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Office of Health Data and Analytics, Division of Health Benefit Exchange has responsibility to administer the Kentucky Health Benefit Exchange. KRS 194A.050(1) requires the secretary of the cabinet to promulgate administrative regulations necessary to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the commonwealth; to operate the programs and fulfill the responsibilities vested in the cabinet; and to implement programs mandated by federal law. This administrative regulation repeals 900 KAR 10:200 as this regulation is no longer necessary because the cabinet is implementing a state-based exchange, pursuant to and in accordance with 42 U.S.C. 18031 and 45 C.F.R. Parts 155 and 156.

Section 1. 900 KAR 10:200, Kentucky State Based Exchange on the Federal Platform is hereby repealed.

ANDREW BLEDSOE, Deputy Executive Director

ERIC C. FRIEDLANDER, Secretary

APPROVED: BY AGENCY: November 16, 2021

FILED WITH LRC: December 13, 2021 at 2:00 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 21, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by February 14, 2022, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until February 28, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Melea Rivera or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 900 KAR 10:200.

(b) The necessity of this administrative regulation: This administrative regulation is necessary as Kentucky will no longer operate a state-based exchange on the federal platform.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation repeals 900 KAR 10:200.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation repeals 900 KAR 10:200.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a repealer administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a repealer administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a repealer administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a repealer administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: This administrative regulation will affect approximately 80,000 individuals that may apply for health insurance in a qualified health plan to be offered on the Kentucky Health Benefit Exchange, 7 issuers, approximately 300 agents, approximately 350 kynectors, and 100 small employers wishing to participate on the Small Business Health Insurance Options Program (SHOP). This administrative regulation will also affect the Kentucky Department of Insurance.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each entity will be aware that the Kentucky Health Benefit Exchange will be moving from a state based exchange on the federal platform to a state based exchange operating on a state platform.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will make each entity aware that the Kentucky Health Benefit Exchange will be moving from a state based exchange on the federal platform to a state based exchange operating on a state platform.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The estimated cost to implement a state-based exchange will be \$5,000,000 to the state but will result in significant savings to Kentuckians through reductions in health insurance premiums.

(b) On a continuing basis: The estimated cost will be \$2,000,000 annually.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used for the implementation and enforcement of this administrative regulation will be from Division of Health Benefit Exchange's existing budget. No new funding will be needed to implement the provisions of this regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees and does not increase any fees either directly or indirectly.

(9) Tiering: Is tiering applied? Tiering was not appropriate because the administration regulation applies equally to all individuals and entities regulated by it.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 18022, 18031, 18042, 18054, 45 C.F.R. Parts 155, 156.

(2) State compliance standards. KRS 194A.050(1)

(3) Minimum or uniform standards contained in the federal mandate. The Affordable Care Act establishes the creation of the American Health Benefit Exchange as identified in Section 1311(a) of the Affordable Care Act. The “Kentucky Health Benefit Exchange” (KHBE) is the Kentucky state-based exchange conditionally approved by the US Department of Health and Human Services. This administrative regulation establishes the definitions used in 900 KAR Chapter 10, which is the chapter related to the functions of KHBE.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter requirements than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects the Office of Health Data and Analytics, Division of Health Benefit Exchange, within the Cabinet for Health and Family Services and the Department of Insurance within the Public Protection and Regulation Cabinet.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 42 U.S.C. 18022, 18031, 18042, 18054, 45 C.F.R. Parts 155, 156.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? Approximately \$2,000,000.

(d) How much will it cost to administer this program for subsequent years? Approximately \$2,000,000.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-): \$2,000.000

Other Explanation: